

STATE OF MICHIGAN  
COURT OF APPEALS

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PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

DEMETRIUS LASEAN HURD,

Defendant-Appellant.

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UNPUBLISHED

July 31, 2008

No. 278618

Wayne Circuit Court

LC No. 06-014068-01

Before: Saad, C.J., and Fort Hood and Borrello, JJ.

PER CURIAM.

Defendant appeals as a right from a jury conviction of possession with intent to deliver over 50 grams, but less than 450 grams, of cocaine, MCL 333.7401(2)(a)(iii), and conspiracy to deliver cocaine, MCL 750.157a. Defendant was sentenced to concurrent prison terms of 118 months to 20 years for the possession conviction and one to five years for the conspiracy conviction. For the reasons set forth herein, we affirm the conviction and sentence of defendant. This case has been decided without oral argument under MCR 7.214(E).

Defendant first argues that the evidence a claim of sufficiency of the evidence as to his knowledge of whether the substance in his possession was cocaine and whether there was sufficient evidence to prove beyond a reasonable doubt that defendant participated in a conspiracy.

A sufficiency of evidence challenge is reviewed de novo. *People v Lueth*, 253 Mich App 670, 680; 660 NW2d 322 (2002). The appellate court reviews the evidence presented at trial in a light most favorable to the prosecution to decide if there was enough evidence for a jury to reasonably find all elements of the crime were proven beyond a reasonable doubt. *People v Jaffray*, 445 Mich 287, 296; 519 NW2d 108 (1994).

Facts elicited at trial from Officer Kenneth Jackson indicated that he set up surveillance outside a pool hall based upon information he received. Just as the information indicated, a green commercial van arrived and parked near the pool hall. Within seconds after the van parked, defendant exited the pool hall and entered the passenger side of the van. The driver of the van and defendant appeared to engage in a conversation for a few seconds, after which the driver got out of the van, walked to the rear of the van, opened the rear door, and removed a white plastic bag. The driver returned to the driver's seat of the van, and it once again appeared that defendant and the driver engaged in a conversation that lasted several seconds.

After the conversation, defendant exited the van carrying in plain view a bag similar to the one retrieved by the driver of the van. Defendant walked to the parking lot adjacent to the pool hall and approached the driver's side of a Chevy Caprice. Defendant handed the plastic bag through the window to the driver of the Caprice. The driver of the Caprice opened the driver's side door, popped open the door panel, and made a motion like he was inserting the bag into the door panel. Officer Jackson alerted the surveillance team about the Caprice after it left the parking lot. The officer who stopped the Caprice testified at trial that he pried back the driver's side door panel and removed a white bag. Laboratory testing confirmed that a Ziploc bag, which was found inside the white plastic bag, contained 125 grams of cocaine.

Defendant's claim of insufficient evidence is based on the assertion that no direct evidence or sufficient circumstantial evidence was presented to prove he knew the bag contained cocaine. Although no direct evidence was offered indicating defendant knew there was cocaine inside the bag, sufficient circumstantial evidence was presented to allow the jury to make a reasonable inference that defendant knew the bag contained cocaine. An actor's state of mind or knowledge can be proved through circumstantial evidence. *Bergen v Baker*, 264 Mich App 376, 387; 691 NW2d 770 (2004). "Because it is difficult to prove an actor's state of mind, only minimal circumstantial evidence is required." *People v McGhee*, 268 Mich App 600, 623; 709 NW2d 595 (2005).

Given that the white plastic bag was found in the driver's side door panel by Officer Geelwood, and that Officer Jackson testified to seeing the driver make a motion like he was inserting the bag into the door panel, a reasonable juror could conclude the driver was trying to hide the bag inside the driver's side door panel. Based on the timing of defendant's emergence from the pool hall within seconds of the van's arrival and the waiting Caprice, one could reasonably conclude the delivery was well orchestrated and intentional. The evidence also permitted an inference that defendant was aware he was delivering a controlled substance. Although defendant did not attempt to hide the white plastic bag as he walked between the van and car, the cocaine was hidden inside the bag and defendant could have easily seen inside. Additionally, one can also reasonably infer that defendant knew the bag contained cocaine given the lack of a reasonably imaginable alternative explanation for the manner in which he and the driver exchanged and handled the substance.

Sufficient evidence was presented to support defendant's conviction of possession with intent to deliver over 50 grams, but less than 450 grams, of cocaine and his conviction of conspiracy to deliver cocaine.

Affirmed.

/s/ Henry William Saad  
/s/ Karen M. Fort Hood  
/s/ Stephen L. Borrello